

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

BRITE SMART CORP.

v.

GOOGLE INC.

Defendant.

CIVIL ACTION NO. 2:14-CV-0760

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**GOOGLE INC.'S MOTION FOR LEAVE TO SUPPLEMENT THE RECORD WITH  
FURTHER EVIDENCE IN SUPPORT OF GOOGLE INC.'S MOTION TO TRANSFER  
VENUE TO NORTHERN DISTRICT OF CALIFORNIA**

Currently pending before the Court is Google Inc.'s Motion to Transfer Venue to the Northern District of California. (Dkt. 18.) Briefing closed on the motion on December 1, 2014. Google files this Motion for Leave to bring to the Court's attention subsequent evidence that is relevant to Google's motion to transfer.

On April 29, 2015, Google took the deposition of Patrick Zuili, the sole named inventor of the patents-in-suit and the owner and CEO of Plaintiff Brite Smart Corp.. At his deposition, Mr. Zuili testified that he had never been to Marshall, Texas – he did not even know where it is:

Q. Have you ever been to Marshall, Texas?

A. I've never been, no.

Q. Do you know where it is?

A. No.

(Ex. A, 58:6 – 58:9.) This testimony is in direct contradiction to the Declaration that Mr. Zuili filed as part of Brite Smart's Opposition to the Motion to Transfer where Mr. Zuili stated

“Marshall, Texas is a much more convenient venue for me to attend trial than San Francisco, CA.” (Dkt. 27-1, ¶ 3.) Now, via deposition, we learn he does not even know where Marshall is located. This testimony also directly contradicts the statement in Brite Smart’s Opposition that “Marshall, Texas is a far more convenient venue for Mr. Zuili than NDCA.” (Dkt. 27, 3.) Also, Brite Smart touted the existence of its “principal office” in Tyler, Texas as supporting a connection with the Eastern District in its transfer Opposition. (*Id.*, 2.) But Mr. Zuili, Brite Smart’s CEO and owner, testified he had never been to the office in Tyler because “there is no reason for me to be there.” (Ex. A, 57:20 - 22.)

Accordingly, Google respectfully requests that the Court grant Google’s Motion for Leave to Supplement the Record to add the portions of the Zuili deposition in Exhibit A.<sup>1</sup>

DATED: May 7, 2015

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By /s/ David A. Perlson

David A. Perlson  
Michelle A. Clark  
Quinn Emanuel Urquhart & Sullivan, LLP  
50 California Street, 22<sup>nd</sup> Floor  
San Francisco, CA 94111  
[davidperlson@quinnmanuel.com](mailto:davidperlson@quinnmanuel.com)  
[michelleclark@quinnmanuel.com](mailto:michelleclark@quinnmanuel.com)

*Attorneys for Google Inc.*

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<sup>1</sup> If the Court believes that consideration of this additional evidence would delay resolution of Google’s Motion to Transfer, Google requests the Court deny Google’s motion.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on May 7, 2015.

*/s/ Miles Freeman*

Miles Freeman

**CERTIFICATE OF CONFERENCE**

I hereby certify that the parties have met and conferred telephonically pursuant to Local Rule CV-7(h) on May 7, 2015, and counsel for Brite Smart opposed Google's Motion For Leave To Supplement The Record With Further Evidence In Support Of Google Inc.'s Motion To Transfer Venue To Northern District Of California. Participants in the conference included Robert Katz and Stafford Davis, counsel for Brite Smart, and David A. Perlson, Lance Yang and Michael Jones on behalf of Google. No agreement could be reached.

*/s/ David A. Perlson*

David A. Perlson